



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

FOUNDATION SURGICAL HOSPITAL OF SAN ANTONIO

Respondent Name

STATE OFFICE OF RISK MANAGEMENT

MFDR Tracking Number

M4-15-0338-01

Carrier's Austin Representative

Box Number: 45

MFDR Date Received

SEPTEMBER 22, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...While the Texas Labor Code does require a provider to bill a workers' compensation carrier within 95 days of the date of service, certain exceptions apply. Section 407.0272(c) of the Texas Labor Code allows the provider to still be reimbursed when the provider timely billed the incorrect carrier. Furthermore, the comments to this section state it was added in 2007 by H.B. 1005 to provide that a health care provider does not forfeit its right to reimbursement if the claim for payment is timely filed, but erroneously filed with the wrong carrier. Therefore, the Hospital should still be reimbursed for payment."

Amount in Dispute: \$53,424.63

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Division has been clear and consistent with prior medical fee dispute decisions that there are two forms of accepted evidence of timely filing which has historically been fax confirmation or certified mail receipt. In review of the proof of timely filing whereas the requestor submitted a copy of the patient's billing ledger, the Office determined that this is not sufficient evidence that the bills were appropriately 'sent' pursuant to the aforementioned rules. Furthermore, the requestor failed to submit as stated in the above sufficient documentation to support that the original bill was sent originally when 95 days and sufficient evidence of the date the requestor was notified by the carrier of the erroneous submission."

Response Submitted by: STATE OFFICE OF RISK MANAGEMENT

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 12, 2014	Hospital Outpatient Services	\$53,424.63	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.

4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 29 – The time limit for filing has expired. Per Rule 133.20; a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.
 - 193 – Original payment decision is being maintained. Upon review it was determined that this claim was processed properly.
 - W3 – Additional payment made on appeal/reconsideration.
 - Please submit the EOB from Mitsui Sumitomo Marine for proof of timely filing for further review.

Issues

1. Is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

Findings

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied...” Review of the documentation submitted by the requestor finds no convincing documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.” 28 Texas Administrative Code §102.4(h) states that “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.” Review of the submitted information finds no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____ Signature	<u>Marguerite Foster</u> Medical Fee Dispute Resolution Officer	<u>November 21, 2014</u> Date
--------------------	--------------------------------------------------------------------	----------------------------------

_____ Signature	<u>Martha Luévano</u> Medical Fee Dispute Resolution Manager	<u>November 21, 2014</u> Date
--------------------	-----------------------------------------------------------------	----------------------------------

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.